



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095

(603) 271-2900 FAX (603) 271-2456



James Van Tassel
RR1 Box 405 A
Effingham, NH 03814

ADMINISTRATIVE ORDER
No. WMD 01-018

December 31, 2001

A. INTRODUCTION

This Administrative Order is issued by the Department of Environmental Services, Waste Management Division to James Van Tassel pursuant to RSA 149-M:15, I. This Administrative Order is effective upon issuance.

B. PARTIES

1. The Department of Environmental Services, Waste Management Division ("DES"), is a duly constituted administrative agency of the State of New Hampshire, having its principal office at 6 Hazen Drive, Concord, NH 03301.
2. James Van Tassel is an individual having a mailing address of RR1 Box 405A Effingham, NH 03814.

C. STATEMENTS OF FACTS AND LAW

1. Pursuant to RSA 149-M, DES regulates the management and disposal of solid waste. Pursuant to RSA 149-M:7, the Commissioner of DES has adopted Env-Wm 100-300, 2100 *et seq.* ("Solid Waste Rules") to implement this program.
2. On November 2, 2001, DES received a complaint from the Division of Forest and Lands alleging that solid waste had been illegally disposed of at the Pine River State Forest, Ossipee, NH ("Site").
3. RSA 149-M:4, XXII defines "solid waste" in part, as "any matter consisting of putrescible material, refuse, residue from an air pollution control facility, and other discarded or abandoned material."
4. RSA 149-M:4, XXI defines "refuse" as "any waste product, solid or having the character of a solid rather than a liquid in that it will not flow readily without additional liquid, and which is composed wholly or partly of such materials as garbage, swill, sweepings, cleanings, trash, rubbish, litter, industrial or domestic solid wastes; organic wastes or residue of animals sold as meat; fruit, vegetable or animal matter from kitchens, dinning rooms, markets, food establishments or any places dealing in or handling meat, fowl, fruits, grain or vegetables; offal, animal excreta, or the carcasses of animals, brick, plaster or other waste matter resulting from the demolition, alteration, or construction of buildings or structures; or accumulated waste material, cans, containers, tires, junk, or other such substances which may become a nuisance."

5. On November 9, 2001, DES personnel conducted an investigation (November Investigation) of the alleged illegal dumping of solid waste at the Site.
6. During the November Investigation, DES personnel observed approximately six bags of household trash and a fiberglass boat.
7. During the November Investigation, DES personnel searched the bags of household trash. A search of the trash revealed mail addressed to James Van Tassel, Highwatch Road, Box 405-A, Effingham, NH 03814. DES personnel tagged these items as evidence, MEG 536.
8. On November 9, 2001, DES personnel located James Van Tassel at his residence. Mr. Van Tassel informed DES personnel that he had his cousin clean-up around his trailer last spring and that his cousin may have dumped the household garbage at the Site.
9. The household trash and fiberglass boat observed by DES at the Site during the November Investigation are solid waste as defined by RSA 149-M:4, XXII.
10. As a result of the November Investigation, a Report of Initial Complaint Investigation ("RICI") was issued to James Van Tassel advising him to immediately cease transporting and disposing of solid waste at an unpermitted solid waste facility, remove all solid wastes at the Site by November 16, 2001, and forward copies of disposal receipts to DES.
11. On December 5, 2001, DES personnel conducted a follow-up visit to the Site. As of the date of this visit, Mr. Van Tassel had not yet completed all of the items listed in the RICI, specifically the removal of all of the solid waste from the Site and forwarding copies of disposal receipts to DES.

D. DETERMINATION OF VIOLATIONS

1. James Van Tassel has violated RSA 149-M:9, II by disposing of solid waste at an unpermitted solid waste facility.

E. ORDER

Based on the above findings, DES hereby orders James Van Tassel as follows:

- Immediately** cease disposing of any solid waste at the Site.
2. By **January 14, 2002**, remove all solid waste from the Site and dispose of it at a permitted solid waste facility.
3. Submit one written status report to DES by **January 17, 2002**, certifying that corrective measures have been implemented and compliance achieved. Include in the report supporting documentation describing those measures taken to achieve compliance, **including copies of disposal receipts**.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:


Michael Galuszka, Waste Management Specialist
DES Waste Management Division
6 Hazen Drive
Concord, NH 03301
Fax: (603) 271-2456
e-mail: mgaluszka@des.state.nh.us

F. APPEAL

Any person aggrieved by this Order may appeal the Order to the Waste Management Council by filing an appeal that meets the requirements specified in Env-WMC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve you of the obligation to comply with the Order.

G. OTHER PROVISIONS

Please note that RSA 149-M provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. You remain obligated to comply with all applicable requirements, in RSA 149-M. DES will continue to monitor your compliance with applicable requirements and will take appropriate action if additional violations are discovered.


COPY
Philip J. O'Brien, Ph.D., Director
Waste Management Division


COPY
George Dana Bisbee, Assistant Commissioner

Certified Mail/RRR: 7099 3400 0002 9769 7877

cc: DB/File
Gretchen Rule, DES Legal Unit
Public Information Officer, DES PIP Office
Jennifer Patterson, Sr. Assistant Attorney General
Town of Ossipee